

United States 4
Circuit Court of Appeals
For the Ninth Circuit.

T. H. JOHNSON,

Appellant,

vs.

MATT W. STARWICH, as Sheriff of King
County, State of Washington,

Appellee.

Transcript of Record.

Upon Appeal from the United States District Court for
the Western District of Washington,
Northern Division.

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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in italic; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in italic the two words between which the omission seems to occur.]

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[1*]

United States District Court, Western District of
Washington, Northern Division.

No. 9296.

In the Matter of the Application of T. H. JOHNSON for a Writ of Habeas Corpus and for a Writ of Certiorari.

*Page-number appearing at foot of page of original certified Transcript of Record.

PETITION FOR WRIT OF HABEAS CORPUS.

To the Honorable Judge of the District Court of the United States for the Western District of Washington, Northern Division:

The petition of T. H. Johnson respectfully shows to this court that the petitioner is now imprisoned, detained, confined and restrained of his liberty, by Matt Starwich, Sheriff of King County, Washington, in the County Jail of King County, State of Washington, at Seattle in said County, which said imprisonment, detention, confinement and restraint is illegal, the illegality thereof consisting in this, to wit:

I.

That in a certain proceeding in the Superior Court of the State of Washington for King County, before the Honorable Mitchell Gilliam, Judge, in the Matter of the Extradition of R. C. James, *alias* T. H. Johnson, the same being No. 179090, there was filed an amended complaint; which charged that your petitioner, on December 12, 1924, at Nanaimo, British Columbia, did by himself alone, and not with others, by violence, commit the crime of robbery upon Robert Husband, an accountant of the Royal Bank of Canada, at Nanaimo.

That thereafter, upon the filing of said amended complaint, [2] the said Mitchell Gilliam, Judge, issued *what* a warrant, being in the name of the State of Washington and directed to Matt Star-

wich, as Sheriff of King County, Washington, to arrest your petitioner by reason of the filing of said amended complaint and imprison him in the King County Jail.

That the said Matt Starwich, who was then and there the Sheriff of King County, State of Washington, and who was not then, or at any of the times herein mentioned authorized by the laws of the United States to serve warrants of arrest issued by and under the authority of the United States, did on the 6th day of January, 1925, pretending to act under and by virtue of the authority of the warrant hereinbefore described, arrest and seize the body of your petitioner and place him in confinement in said County Jail, and ever since said time has restrained him of his liberty in said jail.

That on the 12th and 15th day of January, 1925, your petitioner was brought forcibly and against his will before said Mitchell Gilliam, and against the timely objections of your petitioner that said Mitchell Gilliam had no jurisdiction over the person of your petitioner, and no jurisdiction over the subject matter in extradition proceedings under the laws and treaties of the United States, and the said Mitchell Gilliam did then and there have read to him depositions concerning a crime of robbery, referred to in said amended complaint; that this testimony was heard over the objection of your petitioner; that at the conclusion of the reading of the said depositions, to wit, January 15, 1925, the said Mitchell Gilliam, over the aforesaid objections of

your petitioner, did make, sign and file in the office of the Clerk of the Superior Court of the State of Washington for King County, a certain paper denominated a commitment; that acting under and by the authority of said commitment, said Matt Starwich again confined your petitioner, and is now confining him in the King County Jail, in Seattle, Washington. [3]

II.

That your petitioner was denied a fair hearing and that there was no evidence whatsoever to support the charge against him; that there was no evidence to establish probable cause; that despite the fact that there was no evidence the said Mitchell Gilliam arbitrarily and wrongfully issued a warrant of commitment; that the same is arbitrary and unsupported by fact or law.

III.

That the entire record upon which said Mitchell Gilliam acted is attached hereto, marked Exhibits "A," "B," "C," and "D," consisting of the amended complaint, the depositions, the warrant and the commitment.

IV.

That at said hearing for extradition your petitioner offered to produce witnesses to prove that he did not commit the crime charged in said complaint and that he was not in the Dominion of Canada on December 1, 12 and 13, 1924, but that at said time he [4] was in the State of California; that he had never fled from Canada and had never

been in the City of Nanaimo or in the bank in question; that he offered to prove said facts by himself and other witnesses, and that said Mitchell Gilliam, sitting as Extradition Commissioner, refused to allow him to produce any testimony in his own behalf and refused to allow him to introduce any testimony tending to prove that he was not a fugitive from justice and that he had not been in Canada on the dates specified.

V.

That at the conclusion of the testimony offered by the Dominion of Canada the said Mitchell Gilliam arbitrarily and wrongfully caused said hearing to be closed and refused to allow your petitioner to introduce testimony showing that there was no probable cause to believe he had committed the offense charged in said complaint.

VI.

That said detention of your petitioner is based upon certain papers alleged to be filed by the Dominion of Canada before the said Mitchell Gilliam, and certain proceedings had thereon as aforesaid; that the treaties and laws of the United States have not been complied with; that no probable cause has been shown for the extradition of your petitioner, a citizen of the United States, to the Dominion of Canada for trial; that said attempted extradition is in every respect illegal and wrongful and arbitrary and without probable cause for belief that your petitioner has committed any crime whatsoever in the Dominion of Canada.

VII.

That in order that the matter of this petition for writ of habeas corpus be properly disposed of and that this court may be fully advised in the premises, it is necessary that a writ of certiorari issue, directed to the said Mitchell Gilliam, acting as [5] Extradition Commissioner under the laws and treaties of the United States, to certify to this court the said amended complaint, and the warrant and the order of commitment upon which your petitioner was and is now being held, and that he certify also to this court the testimony by depositions filed with him, wherein he alleges he found probable cause for the extradition of your petitioner; that unless a writ of certiorari is issued, this court will be unable to fully hear and determine said writ of habeas corpus.

WHEREFORE, your petitioner prays for an order of this court, directed to Matt Starwich, Sheriff of King County, Washington, commanding him to show cause, if any he have, before this court, at a time and place to be fixed by the court, why a writ of habeas corpus should not issue herein, as prayed for, and that your petitioner be restored to his liberty. And your petitioner further prays that this court issue a writ of certiorari, directed to the said Mitchell Gilliam, sitting as Extradition Commissioner, commanding him to certify to this court the said amended complaint, the warrant and the order of commitment upon which your petitioner is being held, and all testimony and deposi-

tions heard by him and filed with him in said matter.

T. H. JOHNSON,
Petitioner,

JOHN J. SULLIVAN,
JOHN F. DORE,
V. G. FROST,

Attorneys for Petitioner. [6]

United States of America,
State of Washington,
County of King,—ss.

T. H. Johnson, being first duly sworn, on oath deposes and says:

That he is the petitioner named in the foregoing petition; that he had read said petition, knows the contents thereof, and believes the same to be true.

T. H. JOHNSON.

Subscribed and sworn to before me, this 16th day of February, 1925.

[Seal]

IRENE DYCHES,
Notary Public in and for the State of Washington,
Residing at Seattle. [7]

In the Superior Court of the State of Washington
for King County.

Before the Honorable MITCHELL GILLIAM,
Judge, Acting as Extradition Commissioner.

No. 179090.

In the Matter of the Extradition of R. C. JAMES,
alias T. H. JOHNSON.

AMENDED COMPLAINT.

State of Washington,
County of King.

BERT C. ROSS, being first duly sworn, on oath
says:

That, on the 12th day of December, A. D. 1924,
at the City of Nanaimo, in the Province of British
Columbia, R. C. JAMES, *alias* T. H. JOHNSON,
did commit the crime of ROBBERY, as follows, to
wit: That R. C. JAMES, *alias* T. H. JOHNSON on
the 12th day of December, A. D. 1924, at the city
of Nanaimo, in the Province of British Columbia, un
lawfully then being armed with a certain offensive
weapon, to wit, a revolver, wilfully, unlawfully, and
feloniously, with and by means of violence then
and there used by him to Robert Husband, ac-
countant then in charge of the Royal Bank of
Canada at Naniama, aforesaid, to prevent resis-
tance, violently stole in the presence of the said
Robert Husband and against the will of said Robert
Husband the sum of Forty-two Thousand Dollars,

the property of the Royal Bank of Canada, contrary to the form of statute in such case made and provided, and

He, said R. C. JAMES, *alias* T. H. JOHNSON, on the 19th day of December, A. D. 1924, in the Province of British Columbia, County of Victoria, was charged by an information and complaint duly sworn to before J. H. McMullin, a Justice of the Peace in and for said Province of British Columbia, with the crime of ROBBERY, and thereafter a warrant was duly and regularly issued for the arrest of said [8] R. C. JAMES, *alias* T. H. JOHNSON, in the words and figures as follows, to wit:

“WARRANT IN THE FIRST INSTANCE TO
APPREHEND THE DEFENDANT.

Canada: Province of British Columbia, County of
Victoria.

To all or any of the Constables or other Peace Officers in the said County of Victoria.

WHEREAS, R. C. James, of address unknown has this day been charged upon oath before me a Justice of the Peace in and for the said Province of British Columbia unlawfully then being armed with a certain offensive weapon, to wit: a revolver, did with and by means of violence then and there used by him to Robert Husband, accountant then in charge of the Royal Bank of Canada at Nanaimo aforesaid, to prevent resistance, violently stole in the presence of the said Robert Husband and against the will of said Robert Husband the sum of

Forty-two Thousand Dollars, the property of the Royal Bank of Canada.

These are therefore to command you in His Majesty's name forthwith to apprehend the said R. C. James ——, and to bring him before me or some other Justice of the Peace in and for the said County, to answer unto the said charge, and to be further dealt with according to law.

GIVEN under my hand and seal this 19th day of December, in the year one Thousand Nine Hundred and Twenty-four, at Victoria in the County aforesaid.

[Seal] (Signed) J. H. McMULLIN,
A Justice of the Peace in and for the said Province
of British Columbia.”

That the crime alleged in said complaint and warrant is equivalent to the crime of robbery under the laws of the State of Washington.

That the crime alleged is an extraditable offense under the treaties existing between the Governments of a Great Britain and of the United States of America with reference to the extradition of persons charged with crime.

That he, said R. C. JAMES, *alias* T. H. JOHNSON, fled from said Province of British Columbia, Dominion of Canada, and now is in the County of King, State of Washington, one of the States of the United States of America; that he is a fugitive from justice and liable under the treaties aforesaid and the constitution and laws of the United States to be delivered to the Province of British Columbia, Dominion of Canada.

That the proper authorities are proceeding as rapidly as possible in procuring the necessary extradition warrant and [9] papers for the purpose of returning said R. C. JAMES, *alias* T. H. JOHNSON, to the Province of British Columbia, Dominion of Canada, for trial.

That this affiant, the said Bert C. Ross, is acting herein and makes this complaint for and on behalf of the Dominion of Canada and at the request and by the direction of the government of the Dominion of Canada.

BERT C. ROSS.

Subscribed and sworn to before me this 9th day of January, A. D. 1925.

GILLIAM,

Judge of the Superior Court of the State of Washington, a Court of Record of General Jurisdiction, Acting as Extradition Commissioner Under and by Virtue of the Laws of the United States. [10]

EXHIBIT "B."

In the Superior Court of the State of Washington
for King County.

Before the Honorable MITCHELL GILLIAM,
Judge, Acting as Extradition Commissioner.

No. 179054.

In the Matter of the Extradition of R. C. JAMES,
alias T. H. JOHNSON.

WARRANT.

The State of Washington, to the Sheriff of King County, GREETINGS:

WHEREAS, in conformity with the treaty of extradition existing between the United States of America and the Kingdom of Great Britain and in accordance with the provisions of the statutes for carrying the same into effect, complaint has been made before me, a Judge of the Superior Court of the State of Washington, a court of record of general jurisdiction, and authorized to hear complaints and issue warrants under Section 5270 of the Revised Statutes of the United States, that R. C. JAMES, *alias* T. H. JOHNSON, has been guilty of and stands charged with the crime of ROBBERY, mentioned in said treaty, committed on the 12th day of December, 1924, in the City of Nanaimo, County of Victoria, Province of British Columbia and Dominion of Canada, and that said R. C. JAMES, *alias* T. H. JOHNSON, is now a fugitive from the justice of said Province of British Columbia, Dominion of Canada, and is now in King County, State of Washington, within the territorial jurisdiction of the United States of America.

Now, Therefore, you are hereby COMMANDED forthwith to apprehend the said R. C. JAMES, *alias* T. H. JOHNSON, and bring him before me, on the 12th day of January, 1925, to the end that the evidence of criminality may be heard and considered and [11] that upon the production of proper and

sufficient evidence of his guilt of said offense, he may be held for extradition to the said Dominion of Canada for said offense in accordance with the treaty and statutes in such cases made and provided.

GIVEN under my hand and official seal at Seattle, King County, Washington, this 9 day of Jan., A. D. 1925.

[Seal] MITCHELL GILLIAM,
Judge of the Superior Court of the State of Washington, a Court of Record and of General Jurisdiction, Acting as Extradition Commissioner Under and by Virtue of the Laws of the United States. [12]

EXHIBIT "C."

Before CHARLES HERBERT BEEVOR-
POTTS,

Police Magistrate in and for the City of Nanaimo,
in the County of Nanaimo, Province of British
Columbia.

Nanaimo, B. C., Canada,
Friday, 2nd January, 1924.

Canada,
Province of British Columbia,
County of Nanaimo, to wit:

REX

vs.

T. H. JOHNSON (*alias* R. C. JAMES).

Mr. A. M. JOHNSON, K. C., for the Prosecution.

Mr. HARRY LANGLEY, sworn as Stenographer.

Mr. JOHNSON.—Your Worship, this is a proceeding under the Extradition Act, in the King v. T. H. Johnson (*alias* R. C. James). These proceedings are taken pursuant to the Extradition Act, being one of the Statutes of the Dominion of Canada, and taken for the purpose of extraditing the said T. H. Johnson (*alias* R. C. James) from the United States of America, upon the Information and complaint of John Shirass, Chief Constable of the City of Nanaimo, and sworn at the City of Victoria, British Columbia, on the 19th day of December, 1924, before J. H. McMullen, Justice of the Peace in and for the Province of British Columbia, and will be hereafter referred to in these proceedings as the matter of Rex vs. T. H. Johnson.

The Information and Complaint relates to an offense committed by the said T. H. Johnson, and others, at the City of Nanaimo, in the Province of British Columbia, in the Dominion of Canada, [13] on the 12th day of December, A. D. 1924, wherein and when the said T. H. Johnson, with others, then being armed with a certain offensive weapon, to wit: a revolver, did with and by means of violence then and there used by him the said T. H. Johnson to Robert Husband, accountant then in charge of the Royal Bank of Canada, at Nanaimo aforesaid, to prevent resistance, violently

stole in the presence of the said Robert Husband and against the will of the said Robert Husband, the sum of Forty-two Thousand Dollars, the property of the Royal Bank of Canada.

I will first call John Shirass.

JOHN SHIRASS, a witness for the prosecution, being first duly sworn, testified as follows:

Direct Examination by Mr. JOHNSON.

Q. What is your full name? A. John Shirras.

Q. You are Chief Constable of the City of Nanaimo? A. Yes.

Q. You were such Chief Constable on the 12th day of December 1924? A. Yes.

Q. Did you lay an information against a man named T. H. Johnson, *alias* R. C. James, in these proceedings? A. I did.

Q. I produce original information, who is that signed by?

A. Signed by myself, and signed by J. H. McMullen, a Justice of the Peace for the Province of British Columbia.

Q. Before whom did you lay that information.

A. Before J. H. McMullen, Justice of the Peace for the Province of British Columbia.

Q. On what date?

A. On the 19th day of December, 1924.

Q. Do you know J. H. McMullen personally?

A. Yes.

Q. Where was this information taken out? [14]

A. At the City of Victoria, B. C.

(Testimony of John Shirass.)

Q. Before whom?

A. Before J. H. McMullen, a Justice of the Peace for the Province of British Columbia.

Q. Whose signature is signed to it as Justice of

A. My own.

Q. Whose signature is signed to it as Justice of the Peace? A. The signature of J. H. McMullen.

Q. How do you know it is the signature of J. H. McMullen? A. I saw him sign it.

Q. Did you apply to J. H. McMullen, Justice of the Peace for a warrant for the apprehension of the said R. C. James? A. I did.

Q. Did he issue a warrant for the arrest of R. C. James, within named? A. Yes.

Q. The R. C. James now known as C. H. Johnson? A. Yes.

Q. Is that the warrant that was issued by the said J. H. McMullen? A. Yes.

Q. Did you see him sign it? A. I did.

Information herein mentioned marked Exhibit "1."

Warrant herein mentioned marked Exhibit "2."
(Witness aside.)

EDWARD ROLAND FOSTER, a witness for the prosecution, being first duly sworn, testified as follows:

Direct Examination by Mr. JOHNSON.

Q. What is your full name?

A. Edward Roland Foster.

(Testimony of Edward Roland Foster.)

Q. Where do you reside, Mr. Foster?

A. In Nanaimo. [15]

Q. What is your occupation?

A. Civil engineer and B. C. Land Surveyor.

Q. How long have you been carrying on your profession as a civil engineer?

A. Fifteen years.

Q. How long have you been a member of the B. C. Land Surveyors? A. Nine months.

Q. Nine months last past? A. Yes.

Q. Under instructions from Crown officials did you prepare a plan of the premises of the Royal Bank of Canada in Nanaimo, B. C.? A. I did.

Q. Is this a blue-print of your plan? (Exhibiting blue-print.) A. Yes.

(Blue-print marked Exhibit "3.")

Q. Will you be good enough to mark on that plan the names of the streets in the City of Nanaimo on which the premises of the Royal Bank of Canada are situated?

A. (Indicates Commercial Street and Bastion street.)

Foster—Page 5.

Q. What are the two circles on the pavement marked on the south east corner of exhibit 3?

A. Telephone poles.

Q. Situate where?

A. At the edge of the curb in the sidewalk.

Q. In the cement pavement?

A. In the cement sidewalk.

Q. What does your plan represent Mr. Foster?

(Testimony of Edward Roland Foster.)

A. The ground floor plan of the Royal Bank of Canada in Nanaimo.

Q. What scale is drawn to?

A. Three-eighths of an inch to one foot. [16]

Witness aside.

JOHN W. GRAHAM, a witness for the prosecution, being first duly sworn, testified as follows:

Direct Examination by Mr. JOHNSON.

Q. What is your full name?

A. John W. Graham.

Q. Where do you reside? A. Malahat.

Q. Where is that from the city of Nanaimo?

A. Fifty-odd miles south from Nanaimo, and twenty miles north from Victoria.

Q. Were you in the city of Nanaimo, B. C., on the 12th day (of) December, 1924. A. I was.

Q. Did you have occasion on that day to visit the premises of the Royal Bank of Canada in Nanaimo? A. I did.

Q. At what time approximately?

A. Two thirty in the afternoon, or just before two-thirty,

Graham—Page 6

roughly speaking two-thirty.

Q. For what purpose did you go to the bank?

A. Private business with the manager.

Q. Banking business?

A. No it was not, on a private business matter;

(Testimony of John W. Graham.)

I went to discuss a private matter with the manager of the bank.

Q. Through which door of the bank did you enter?

A. The left hand door near the manager's office.

Q. Will you mark on exhibit 3? Mark where you entered.

A. (Indicates on plan.) [17]

Q. How far did you get inside?

A. I really was not clear of the swing door; just opened the swing door on the inside going in.

Q. Did you enter on the left hand side?

A. I entered at the point marked on exhibit 3, as G-1.

Q. You were directed by someone in the bank to go somewhere, were you not. A. To back up.

Q. Where did you back up to?

A. I backed up to the middle of the floor opposite. This is the first teller's cage; opposite this cage here, up to the centre.

Q. Mark that with a dotted circle where you were told to back to.

A. As near as I can judge, about the middle—halfway between.

Q. Mark that G-2. How long did you stay at point G-2?

A. Not very long. There was another man took hold of me then and told me to back up to position G-3.

Q. Mark with a circle and dot.

(Testimony of John W. Graham.)

Graham—Page 7

A. Yes.

Q. Could you identify from a photograph the man who told you to back up from point G-2 to point G-3? A. Yes.

Q. I show you a photograph.

A. I recognize that as the man that backed me from point G-2 to point G-3.

Mr. JOHNSON.—I tender that as exhibit 4.

(Photograph of T. H. Johnson, *alias* R. C. James, marked Exhibit "4.")

Q. That man is now known as—what do you know him as now?

A. Only by information here; I know him as Johnson.

Q. How big a man was he?

A. He was a large-sided man, probably two hundred pounds—one [18] ninety to two hundred pounds; might be more; he wouldn't be any less.

Q. And height?

A. Six feet anyway, I should say.

Q. Did you notice anything about his dress or appearance—how was he dressed?

A. He was dressed in an ordinary suit of clothes. He had a long overcoat on.

Q. Did you notice his hat?

A. Yes, he had a hat, it would be a brown hat I should think.

Q. What shape?

A. You might say, a soft Fedora hat; as a matter of fact, like I wear myself.

(Testimony of John W. Graham.)

Q. Can you fix the hour time or the hour when you were backed from position G-2 to position G-3; how many minutes had you been in the bank before you got to the position G-3?

Graham—Page 8.

A. It wouldn't be more than half a minute. It was pretty quick.

Q. Did you notice anything in the hands of the man whose photograph you have identify on exhibit 4? A. I noticed two guns.

Q. Where? A. In his hand.

Q. One gun in each hand? A. Yes.

Q. How long did you remain at point G-3 approximately?

A. Well I was there for twenty-five minutes.

Q. Did you have occasion to observe the man you have identified and described as having two guns in his hands?

A. Yes, he was directly in front of me. In fact I didn't have anything else to look at; I was staring at him all the time.

Q. During the time you were staring at him, where were the guns? A. In his hands. [19]

Q. What was he doing, if anything, with those guns during that time?

A. His arms were rigid; he was moving them slightly.

Q. In which direction were the guns pointed?

A. Pointed towards me.

(Testimony of John W. Graham.)

Q. Did you have any conversation with this man that had the two guns pointed towards you?

A. Yes.

Q. What was that conversation?

A. Do you mean me to tell in exact words?

Q. No, the purport of the conversation.

A. I asked *me* what he was trying to, in a friendly way.

Q. Did he make any reply?

Graham—Page 9

A. “You keep quiet.”

Q. Anything else?

A. I says, “I know.” Then he spoke again and he said, “It is a dirty day for a job like this, but we need the money.”

Witness aside.

JOHN MCGUFFIE, a witness for the prosecution, being first duly sworn, testified as follows:

Direct Examination by Mr. JOHNSON.

Q. What is your full name?

A. John C. McGuffie.

Q. Where do you reside?

A. 425 Vancouver Avenue, Nanaimo, B. C.

Q. What is your occupation?

A. Accountant for Malkin, Pearson Co., Ltd.

Q. Where were you on the 12th of December last—where were you residing? A. In Nanaimo.

Q. Did you have occasion to visit the premises of the Royal Bank of Canada in Nanaimo on the 12th day of December last? A. I did.

(Testimony of John McGuffie.)

Q. At what time in the day? [20]

A. About 2:45 or 2:40 P. M.

Q. In the afternoon? A. Yes.

Q. For what purpose did you go to the bank?

A. For the purpose of making a deposit for my firm.

McGuffie—Page 10

Q. Which door of the bank premises did you enter?

A. The left hand door going in from the street.

Q. Will you mark on exhibit 3 where you entered?

A. (Indicates position on exhibit 3.)

Q. Will you mark on exhibit 3 where you stood in the bank after you entered.

A. I was walking in through the inside door, and I noticed a number of people standing up at the west end of the bank facing towards me.

Q. Mark about where you were.

A. I reached a point just about here. (Indicates on plan.)

Q. A circle, cross marked McG-1. What took place when you got to the point marked McG-1?

A. A hand was placed on my shoulder, and I was turned forcibly around, and I found myself confronting a man with a gun in each hand.

Q. I produce to you a photograph marked in these proceedings as exhibit 4 and ask you if you can identify that photograph.

A. Yes, I positively identify that as Johnson.

Q. And as what in relation to the evidence you have given just now?

(Testimony of John McGuffie.)

A. As the man who had the two guns, one in each hand, and who turned me forcibly round at that point.

Q. What did you do after he had turned you around?

A. He began to feel me all over, and then ordered me to turn around again with my back towards him, and he continued to feel in my pockets on the outside of my coat.

Q. What were you compelled to do after that?
[21]

McGuffie—Page 11

A. He then ordered me to continue moving on towards the west end of the bank.

Q. Where did you take up your stand when you reached there?

A. I had only turned two or three steps when some man inside of the bank partition said something to Johnson as to me being the man *the* were waiting for.

Q. He took you for whom?

A. The manager of the Royal Bank of Canada. Johnson then asked me if I was the manager of the bank and I said no. *He* confederate then said something else to him and he insisted that I was the manager of the bank, and I told him I was not. I then heard his confederate ask him—

Q. In consequence of what some person said to this man—

A. In consequence of what his confederate said, Johnson asked me where I was from, and my reply

(Testimony of John McGuffie.)

was, from the Library. Johnson further asked me what my name was, and I replied McGuffie. A lady on my left side *corroborated* this statement to Johnson.

Q. Where were you at the time this conversation took place?

A. Between—halfway down between here.

Q. Will you mark that spot where the conversation took place? A. (Indicates position.)

Q. At circle cross McG-2 is where the conversation took place with Johnson? A. Yes.

Q. Where did you go from point marked McG-2 on exhibit 3?

A. To the far west end of the bank of the floor premises.

Q. Why did you go down to the west end of the floor premises? A. To joint the other people.
[22] McGuffie—No. 12

Q. Why?

A. Johnson told me to continue moving.

Q. In consequence of that direction, what did you do?

A. I continued and went in the direction where the other people were standing.

Q. Will you mark the point where you were when you got to the west end of the bank?

A. (Indicates position on plan.)

Q. A circle, cross, McG-3 is the point you stood?

A. Yes.

Q. Just right against what?

(Testimony of John McGuffie.)

A. The west partition, called the savings ledger counter.

Q. How long did you stay at point McG-3?

A. Until about 2:55 P. M.

Q. When what happened?

A. Johnson left the bank and entered the car at the entrance to the bank.

Q. Did you see him do that? A. Yes.

Q. As Johnson left the bank where did you go from point Mark McG-3? A. And noticed what?

A. Noticed the car drive off.

Q. What car?

A. The car that Johnson had entered.

Q. What kind of car was it? A. Motor-car.

Q. You noticed Johnson enter a waiting motor-car? A. Yes.

Q. Which stood where?

A. Which stood opposite the left entrance to the bank.

Q. Close to the curb? [23] A. Yes.

Q. You saw him enter that car? A. Yes.

Q. And you saw the car move off? A. Yes.

McGuffie—Page 13

Witness aside.

WINNEFRED ELSIE COOK, a witness for the prosecution, being first duly sworn, testified as follows:

Direct Examination by Mr. JOHNSON.

Q. What is your full name?

A. Winnifred Elsie Cook.

(Testimony of Winnefred Elsie Cook.)

Q. Are you a married woman? A. Yes.

Q. Residing in Nanaimo, B. C. A. Yes.

Q. And were you residing here on the 12th December last 1924? A. Yes.

Q. Had you occasion on that day to enter the premises of the Royal Bank of Canada in Nanimo?

A. Yes.

Q. For what purpose?

A. To get a cheque cashed.

Q. About what time *dod* you enter the bank?

A. At twenty minutes to three.

Q. Which door did you enter from?

A. The left hand door.

Q. How far did you get in the bank premises?

A. Right back, the desk near the Savings, the wicket before you get to the Savings. I got just about here (indicating).

Q. We will mark that with a dot and circle C-1. That is [24] the position you reached?

Cook—Page 14

A. Yes.

Q. Then what happened to you?

A. I walked straight in, neither looking to the right or left, and as I walked up I noticed several people standing, and I enquired why there *wasen't* anyone to wait on us.

Q. That was when you got to position C-1?

A. Yes.

Q. The position that you refer to was standing away from point C-1?

(Testimony of Winnefred Elsie Cook.)

A. Standing right at the teller's wicket.

Q. Near the teller's cage? A. Yes.

Q. And at this counter? A. Yes.

Q. At the counter at the west end of the building?

A. Yes.

Q. And who did you make that enquire of?

A. *Off* another woman who was standing there.

Q. Was there anyone in the cage immediately to the left of point C-1 when you got there?

A. I didn't notice.

Q. What did you next notice?

A. In consequence of what I learned I didn't make any more inquiries.

Q. Did you see anybody in the bank that afternoon that you have since been asked to recognize?

A. Yes.

Q. I show you exhibit number 4 in the case of the King against Watson, and ask you if you recognize that photograph?

A. I recognize that as the big man standing in the bank. [25]

Cook—Page 15

Q. Will you mark on exhibit 3 where the man you have just identified was standing when you were at point C-1. Where was this man standing?

A. He was standing down there. (Indicates.)

Q. Mark with a circle, C-2. That is where you say this big chap was standing at C-2? A. Yes.

Q. Did you notice whether he had anything in his hands when he was at point C-2?

A. Yes, he had a gun in each hand.

(Testimony of Winnefred Elsie Cook.)

Q. You were called down to Seattle in the United States, and some days after the 12th of December, 1924, to see if you could identify any of the persons concerned in the robbery of the Royal Bank of Canada on the 12th December last? A. Yes.

Q. Did you identify any of the persons that were in custody in Seattle when you were called there? A. Yes.

Q. Who did you identify?

A. I identified Johnson.

Q. The man who photograph is marked in these proceedings of Rex vs. Johnson as Exhibit 4?

A. Yes.

(Witness aside.)

ROBERT HUSBAND, a witness for the prosecution, being duly sworn, testified as follows:

Direct Examination by Mr. JOHNSON.

Q. What is your full name?

A. Robert Husband.

Q. Where do you reside?

Husband—Page 16 [26]

A. 107 Victoria Road, Nanaimo, B. C.

Q. Where were you residing on the 12th December last past? A. The same place.

A. Accountant at the Royal Bank of Canada in Nanaimo aforesaid.

Q. What was your occupation then and now?

Q. I produce to you a plan in the case of the King against Johnson, marked Exhibit 3 and ask you what it is?

(Testimony of Robert Husband.)

A. A plan of the Royal Bank of Canada.

Q. Will you mark on Exhibit 3 in the case of *Rex vs. Johnson* the various compartments or offices of the bank staff there in the Royal Bank of Canada as it was in the Royal Bank of Canada on December 12, 1924.

A. This is the manager's office; this is my own desk:

Q. Mark it "Accountant's desk."

A. (Indicates on plan.)

Q. Indicate on the plan the position of number one teller.

A. (Indicates position of number one teller; also number two teller, Savings ledgers.) This is number three cage.

Q. Teller's cage?

A. Yes. Number four teller's cage, customers room.

Q. There are three oblong places in the center of the floor space?

A. Customers desks in the center of the floor.

Q. Were you in the bank premises on the afternoon of the December 12th, 1924? A. Yes.

Q. Who was in charge of the bank at that time and place? A. I was.

Q. Where was the manager of the bank at that time? A. He was out of the premises.

Husband—Page 17

Q. Where were you standing on the afternoon of the 12th December, 1924 at about 2:30?

A. At my own desk.

(Testimony of Robert Husband.)

Q. Marked on Exhibit 3 as "Accountant's desk"?

[27] A. Yes.

Q. From there where did you proceed?

A. I was standing behind the first teller's cage.

Q. Then what happened?

A. I heard a noise of some men coming into the bank.

Q. Will you mark on Exhibit 3 the spot at the time you heard that noise? A. Yes. (Indicates.)

Q. Marked with a dot and circle H-1?

A. Yes.

Q. After you heard that noise what took place?

A. I looked around and saw a man walking down in front of my desk.

Q. Was he armed or unarmed?

A. I couldn't say.

Q. What took place after you noticed that man?

A. At the same time there was another man came through the swing door adjoining the manager's office on the west.

Q. Where did he proceed?

A. He came right up to me at point H-1.

Q. What took place then and there?

A. He asked me to take my hands down, and to turn around.

Q. Had you your hands up?

A. I had them up.

Q. For what reason?

A. This fellow in front had said something about sticking them up.

(Testimony of Robert Husband.)

Husband—Page 18

Q. And you obeyed that instruction? A. Yes.

Q. And the man told you to put your hands down and you did so? A. Turned around.

Q. What did you do in consequence of that direction?

A. I walked from point H-1 in front of the vault.

Q. Just mark the vault with the word "Vault."

A. At the west end of the bank premises. (Indicates.)

Q. Will you mark the spot where you walked to under instruction as H-2? [28]

A. (Indicates on plan.)

Q. What took place when you got to that spot?

A. He told me to lie down.

Q. And you laid down?

A. Yes. In about half a minute or so he came up to me and gave me a nudge and told me to look up, and when I looked up he said you are the man; come inside here.

Q. Meaning where?

A. Into the vault, "And open up this safe."

Q. What did you tell him?

A. I told him I couldn't open it up, as it took the manager and I to open it up.

Q. And as a consequence the safe was not opened up?

A. I opened up the safe, but not the inside doors.

Q. Was any money taken from the Royal Bank of Canada in Nanaimo that afternoon? A. Yes.

Q. The property of the bank? A. Yes.

(Testimony of Robert Husband.)

Q. Approximately how much?

Husband—Page 19
Stephenson.

A. Approximately \$42,000.

Q. From where?

A. Cages one, two and four.

Q. And those monies were taken by means of violence, as you have described? A. Yes.

Q. And against your wish and will? A. Yes.

Q. When you were directed to proceed from point H-1 on Exhibit 3 to point H-2, how did you go?

A. I went with him following me up, prodding me on the back. [29]

Q. Do you know what he prodded you with?

A. I don't know.

Q. What did it feel like?

A. I imagined it was two guns.

(Witness aside.)

ALBERT THOMAS STEPHENSON, a witness for the prosecution, being first duly sworn, testified as follows:

Direct Examination by Mr. JOHNSON.

Q. What is your full name?

A. Albert Thomas Stephenson.

Q. Where do you reside? A. City of Nanaimo.

Q. What is your occupation?

A. B. C. Police Force.

Q. You are a member of the B. C. Police Force?

A. Yes.

Q. Occupying what position?

(Testimony of Albert Thomas Stephenson.)

A. Staff Sergeant.

Q. Where were you on the 12th December, 1924?

A. In the city of Nanaimo.

Q. Holding what position?

Stephenson—Page 20

A. Staff Sergeant.

Q. Who is the Attorney-General of British Columbia? A. The Hon. A. M. Manson.

Q. I produce to you a written authority from the Hon. A. M. Manson, Attorney-General of British Columbia under date of December, 30, 1924, authorizing and directing you to proceed to the city of Seattle, in the State of Washington, United States of America, and there prosecute the necessary proceedings against R. C. James, for his extradition to British Columbia. [30] A. Yes.

Q. You now know Mr. Stephenson, that the R. C. James mentioned in that letter of authority is one J. H. Johnson in these proceedings? A. Yes.

Q. And referred to in the proceedings of Rex vs. Johnson? A. Yes.

Q. Do you know the Attorney-General's signature? A. Yes.

Q. Did you see him sign that letter of authority to you? A. Idid.

Q. And the said R. C. James, now known as J. H. Johnson is charged with robbery with violence on the 12th day of December, 1924, at the city of Nanaimo, aforesaid in the Province of British Columbia? A. Yes.

(Testimony of Albert Thomas Stephenson.)

(Letter of authority above referred to marked Exhibit "5.")

Q. Do you know whether extradition proceedings have been taken for the extradition of Johnson from the city of Seattle, in the United States of America by the Hon. Attorney-General of British Columbia?

Stephenson—Page 21

A. They have.

(Witness aside.)

Mr. JOHNSON.—I intend to prove the Criminal Law of Canada before the Extradition Judge in the city of Seattle. That will be all the evidence before your Worship in the case of Rex vs. Johnson.

I hereby certify the foregoing to be a true and accurate report of the said proceedings.

HARRY LANGLEY,

Sworn Stenographer, and Deputy Official Reporter. [31]

REX

vs.

T. H. JOHNSON (*alias* R. C. JAMES).

Canada,
Province of British Columbia,
County of Nanaimo.—s.

In the Matter of T. H. JOHNSON, *alias* R. C. JAMES, and in the Matter of the Extradition Act, and in the Matter of REX vs. T. H. JOHNSON, *alias* R. C. JAMES.

I, Harry Langley, of the City of Victoria, in the

Province of British Columbia, Dominion of Canada, Deputy Official Stenographer make oath and say as follows:

(1) That I am a Deputy Official Stenographer of the Victoria Judicial District, and that I am the stenographer appointed by Charles Herbert Beevor-Potts, Police Magistrate in and for the City of Nanaimo, in the Province of British Columbia, Dominion of Canada, to report the evidence in this case.

(2) That I was duly sworn as such stenographer by the said Charles Herbert Beevor-Potts before the taking of the said evidence.

(3) That the evidence hereto attached is a true and correct report of the proceedings and evidence taken at the hearing of the said case.

HARRY LANGLEY,

Sworn at Nanaimo in the Province of British Columbia, this fifth day of January, 1925.

Police Magistrate in and for the City of Nanaimo, in the County of Nanaimo, in the Province of British Columbia, Dominion of Canada. [32]

REX

vs.

T. H. JOHNSON (*alias* R. C. JAMES).

Canada,
Province of British Columbia,
County of Nanaimo.

In the Matter of T. H. JOHNSON, *alias* R. C. JAMES, and in the Matter of the Extradition Act, and in the Matter of REX vs. T. H. JOHNSON, *alias* R. C. JAMES.

I, Charles Herbert Beevor-Potts, Police Magistrate in and for the City of Nanaimo, in the County of Nanaimo, in the Province of British Columbia, Dominion of Canada, being duly sworn, make oath and say:

(1) That I am Police Magistrate in and for the City of Nanaimo, Province of British Columbia, Dominion of Canada.

(2) That the foregoing, each page of which is signed by me is a true and correct copy and transcription of the evidence given before me on the 2d day of January, A. D. 1925, in the above case.

(3) That the stenographer, Harry Langley, was duly sworn by me before taking the said evidence.

Police Magistrate in and for the City of Nanaimo,
Province of British Columbia.

Sworn at Nanaimo, in the Province of British Columbia, Dominion of Canada, this fifth day of January, A. D. 1925.

A Commissioner for Taking Affidavits in and for
the Province of British Columbia. [33]

EXHIBIT "D."

In the Superior Court of the State of Washington.
Before the Honorable MITCHEL J. GILLIAM,
Judge of the Said Superior Court Acting as Ex-
tradition Magistrate Under and by Virtue of
Section 5270 of the Revised Statutes of the
United States.

No. 179,090.

In the Matter of the Extradition of R. C. JAMES,
alias T. H. JOHNSON.

COMMITMENT.

The above-entitled matter having come on for hearing before me, MITCHELL GILLIAM, a Judge of the Superior Court of the State of Washington, on the 12th and 15th days of January, 1925, at Seattle, King County, State of Washington; and

The said Superior Court being a Court of Record of General Jurisdiction of the State of Washington, one of the States of the United States; and

I, the said MITCHELL GILLIAM, acting as Extradition Magistrate to hear evidence of the criminality of said R. C. JAMES *alias* T. H. JOHNSON, in the above-entitled matter under and by virtue of Section 5270 of the Revised Statutes of the United States; and

It appearing that a complaint under oath was heretofore on the 9th day of January, 1925, made and filed before me at Seattle aforesaid, by BERT C.

ROSS, charging that the said R. C. JAMES, *alias* T. H. JOHNSON, had committed the crime of ROBBERY on the 12th day of December, 1924, at the City of Nanaimo in the Province of British Columbia, Dominion of Canada; and

It further appearing that said BERT C. ROSS in making [34] said complaint was acting for and on behalf of the Dominion of Canada, being duly authorized so to do, and that this is an extradition proceeding promoted by the Government of the Dominion of Canada; and

It further appearing that the said R. C. JAMES, *alias* T. H. JOHNSON, was duly arrested in King County, State of Washington, on a warrant issued by me in the said MITCHELL GILLIAM, acting as aforesaid; and

The said complaint having been read to the said R. C. JAMES, *alias* T. H. JOHNSON, and the said R. C. JAMES, *alias*, T. H. JOHNSON, appearing at all times during the hearing in person and being represented by counsel JOHN F. DORE; and

I, the said MITCHELL GILLIAM aforesaid, having heard the sworn testimony of witnesses and having received in evidence other proofs offered on behalf of the Dominion of Canada, and

It appearing that the crime charged against the said R. C. JAMES, *alias* T. H. JOHNSON, is the crime of robbery mentioned in and extraditable under the treaty of extradition now existing and in force between the United States of America and the

Kingdom of Great Britain, the provisions of which treaty apply to the Dominion of Canada, one of His Majesty's British Dominions beyond the seas; and

It further appearing that the said R. C. JAMES, *alias* T. H. JOHNSON, is the person accused of said offense in the Dominion of Canada; that the evidence heard and considered by me would, under the laws of the State of Washington and the United States justify the apprehension and commitment for trial of said R. C. JAMES, *alias* T. H. JOHNSON, had the crime aforesaid been committed in the STATE OF WASHINGTON, and that said evidence sustains the said charge, and that there is probable cause for holding the accused R. C. JAMES, *alias* T. H. JOHNSON, for trial— [35]

Now, therefore, it is hereby ORDERED, ADJUDGED, and DECREED that the said R. C. JAMES, *alias* T. H. JOHNSON, be, and he is, hereby remanded to the County Jail of King County, State of Washington, there to remain until delivered up, pursuant to the requisition of the proper authorities of the Dominion of Canada, in accordance with the provisions of the existing extradition treaty between the United States and Great Britain, and the laws of the United States.

Done this 15th day of January, 1925.

Judge of the Superior Court of the State of Washington, a Court of Record of General Jurisdiction, Acting Herein Under and by Virtue of Section 5270 of the Revised Statutes of the United States as Extra-Magistrate.

[Endorsed]: Filed in the United States District Court, Western District of Washington, Northern Division. Feb. 18, 1925. Ed. M. Lakin, Clerk. By S. M. H. Cook, Deputy. [36]

United States District Court, Western District of
Washington, Northern Division.

No. 9,296.

In the Matter of the Application of T. H. JOHNSON for a Writ of Habeas Corpus and for a Writ of Certiorari.

ORDER TO SHOW CAUSE.

This matter coming on regularly for hearing upon the petition of T. H. Johnson for a writ of habeas corpus, the said petitioner appearing by his attorneys, John J. Sullivan, John F. Dore and V. G. Frost; and the Court having read and filed said petition, wherein it is alleged that said petitioner, T. H. Johnson, is illegally restrained of his liberty at the County Jail, in the City of Seattle, County of King, State of Washington, by Matt Starwich, Sheriff of said King County, and good cause appearing therefor,—

It is ORDERED AND ADJUDGED that the said Matt Starwich, Sheriff as aforesaid, be and he hereby is commanded to show cause, if any he have, before this court, on the 21st day of February, 1925, at 9:30 o'clock in the forenoon of said day, or as soon thereafter as the same can be heard, why a writ

of habeas corpus should not issue herein, as prayed for, and the said petitioner restored to his liberty.

And it is further ORDERED that a copy of this order, together with a copy of said petition, be served upon the said Matt Starwich, Sheriff as aforesaid, and upon the United States District Attorney.

Done in open court, this 18 day of February, 1925.

JEREMIAH NETERER,
Judge. [37]

[Endorsed]: (Order to Show Cause.) Filed in the United States District Court, Western District of Washington, Northern Division. Feb. 18, 1925. Ed. M. Lakin, Clerk. By S. M. H. Cook, Deputy.

RETURN ON SERVICE OF WRIT.

United States of America,
Western District of Washington,—ss.

I hereby certify and return that I served the annexed order to show cause on the therein named Matt Starwich, Sheriff of King County, by handing to and leaving a true and correct copy thereof with him personally at Seattle, in said District, on the eighteenth day of February, A. D. 1925.

E. B. BENN,
U. S. Marshal.

[Endorsed]: Filed in the United States District Court, Western District of Washington, Northern Division. Feb. 20, 1925. Ed. M. Lakin, Clerk. By S. M. H. Cook, Deputy. [38]

In the United States District Court for the Western
District of Washington, Northern Division.

9,296.

In the Matter of the Application of T. H. JOHNSON for a Writ of Habeas Corpus, and for a Writ of Certiorari.

HEARING ON WRIT.

Now on this 21st day of February, 1925, leave is granted to amend answer of respondent by attaching thereto and making a part thereof a copy of certain parts of the testimony taken at the hearing before the Extradition Commissioner, which copy is marked Exhibit "E" on the showing of the amended answer. The writ is denied.

Journal No. 13, page 174. [39]

United States District Court, Western District of
Washington, Northern Division.

No. 9,296.

In the Matter of the Application of T. H. JOHNSON, for a Writ of Habeas Corpus.

ORDER TO DISMISS PETITION.

This matter coming on regularly to be heard upon the petition of the above named T. H. Johnson for a writ of habeas corpus, order to show cause, respondent's answer and respondent's demurrer and

motion to dismiss petition; and petitioner and respondent both appearing by their respective counsel, and the Court being fully advised in the premises,—

It is hereby ORDERED, ADJUDGED and DECREED that the order to show cause be discharged and that the petition for writ of habeas corpus be and the same hereby is denied.

Done in open court, this 25 day of February, 1925.

JEREMIAH NETERER,

Judge.

O. K.—BERT C. ROSS,
Atty. for Respondent.

[Endorsed]: Filed in the United States District Court, Western District of Washington, Northern Division. Feb. 25, 1925. Ed. M. Lakin, Clerk. By S. M. H. Cook, Deputy. [40]

United States District Court, Western District of
Washington, Northern Division.

No. 9,296.

In the Matter of the Application of T. H. JOHNSON for a Writ of Habeas Corpus.

PETITION FOR ORDER ALLOWING APPEAL.

The above-named petitioner, T. H. Johnson, feeling himself aggrieved by the order, judgment and decision of this Court in discharging the rule to show cause issued herein and in denying petitioner's ap-

plication for a writ of habeas corpus, made and entered on the 24th day of February, 1925; and having given, served and filed his notice of appeal therefrom to the United States Circuit Court of Appeals for the Ninth Circuit, now prays that his said appeal be allowed and that a transcript of the record of all proceedings and files upon which said order, judgment and decision was made and entered, duly authenticated, be duly transmitted to the said United States Circuit Court of Appeals for the Ninth Circuit.

And petitioner prays that on account thereof his said appeal be allowed, and to correct the errors complained of, and to reverse and annul and set aside said order, judgment and decision, as aforesaid.

And petitioner states that he will, within the time allowed by law, file herein his assignment of errors alleged to have been committed in the above-entitled proceeding and intended to be urged by petitioner, as appellant, upon the presecution of said appeal.

JOHN J. SULLIVAN,
JOHN F. DORE,
V. G. FROST,

Attorneys for Petitioner. [41]

Acceptance of service of within petition acknowledged this 24 Feb., 1925.

PATTERSON & ROSS,
Attorney Resp.

[Endorsed]: Filed in the United States District Court, Western District of Washington, Northern Division. Feb. 25, 1925. Ed. M. Lakin, Clerk. By S. M. H. Cook, Deputy. [42]

In the United States District Court, for the Western District of Washington, Northern Division.

No. 9,296.

In the Matter of the Application of T. H. JOHNSON, for a Writ of Habeas Corpus.

ASSIGNMENT OF ERRORS.

Comes now the above-named petitioner, and the appellant herein, Harry Stone, by his attorneys, John F. Dore and John J. Sullivan, and says:

That in the record and proceedings in this cause, and in the order and judgment entered herein on the 24th day of February, 1925, there is manifest error, in this, to wit:

I.

That the Court erred in ruling that Mitchell Gilliam, Judge of the Superior Court of the State of Washington, for King County, had jurisdiction of the subject matter of the proceeding in which he issued a warrant of arrest for the apprehension of petitioner, and upon which he based his warrant of commitment for the detention of petitioner.

II.

That the Court erred in ruling that the said Judge Gilliam had jurisdiction over the person of said petitioner in said proceeding.

III.

That the Court erred in refusing to hold that the warrant of arrest, under which petitioner was ap-

prehended and taken before said Judge in said proceeding, was invalid and void.

IV.

That the Court erred in refusing to hold that the Sheriff of King County, State of Washington, was not authorized by law to execute warrants of arrest in said proceedings held before said Judge [43] Gilliam.

V.

That the Court erred in discharging the rule to show cause issued herein.

VI.

That the Court erred in denying petitioner's application for a writ of habeas corpus.

VII.

That the Court erred in refusing to discharge the petitioner from custody.

VIII.

That the Court erred in making and entering its order and judgment discharging the rule to show cause and denying petitioner's application for a writ of habeas corpus.

IX.

That the Court erred in holding that the testimony taken in said proceeding before Judge Gilliam was sufficient to establish probable cause that petitioner is guilty of the crime charged.

JOHN J. SULLIVAN,

JOHN F. DORE,

V. G. FROST,

Attorneys for Petitioner.

[Endorsed]: Filed in the United States District Court, Western District of Washington, Northern Division. Feb. 25, 1925. Ed. M. Lakin, Clerk. By S. M. H. Cook, Deputy. [44]

United States District Court, Western District of
Washington, Northern Division.

No. 9296.

In the Matter of the Application of T. H. JOHNSON for a Writ of Habeas Corpus.

ORDER ALLOWING APPEAL.

This matter coming on for hearing upon the petition of the above-named petitioner for an order of this Court allowing his appeal herein, and it appearing to the Court that a notice of appeal from the order, judgment and decision of this Court, made and entered herein on the 24th day of February, 1925, has been filed herein and served upon Patterson & Ross, attorneys for respondent,

It is, therefore, ORDERED that such appeal be and the same hereby is allowed.

Done in open Court, this 25 day of February, 1925.

JEREMIAH NETERER,

Judge.

Acceptance of service of within order acknowledged this 24 Feb., 1925.

PATTERSON & ROSS,

Attorney Resp.

[Endorsed]: Filed in the United States District Court, Western District of Washington, Northern Division. Feb. 25, 1925. Ed M. Lakin, Clerk. By S. M. H. Cook, Deputy. [45]

United States District Court, Western District of Washington, Northern Division.

No. 9226.

In the Matter of the Application of T. H. JOHNSON for a Writ of Habeas Corpus.

NOTICE OF APPEAL.

To the Judge and Clerk of said Court, and to Patterson & Ross, Attorneys for Respondent:

You will hereby take notice that the above-named petitioner hereby appeals to the United States Circuit Court of Appeals for the Ninth Circuit from the order and judgment entered herein on the 24th day of February, 1925, discharging the rule to show cause issued herein and denying petitioner's application for a writ of habeas corpus, as more fully appears from the assignment of errors filed herein.

Dated at Seattle, Washington, February 21, 1925.

JOHN J. SULLIVAN,

JOHN F. DORE,

V. G. FROST,

Attorneys for Petitioner.

[Endorsed]: Filed in the United States District Court, Western District of Washington, Northern

Division. Feb. 25, 1925. Ed. M. Lakin, Clerk,
By S. M. H. Cook, Deputy.

Acceptance of service of within notice acknowledged this 24 of Feb. 1925.

PATTERSON & ROSS,
Attorney Resp. [46]

United States District Court, Western District of
Washington, Northern Division.

No. 9296.

In the Matter of the Application of T. H. JOHNSON for a Writ of Habeas Corpus.

APPEAL BOND FOR COSTS.

KNOW ALL MEN BY THESE PRESENTS:
That we, T. H. Johnson, as principal, and National Surety Company, a corporation, as surety, are held and firmly bound unto Matt Starwich, Sheriff of King County, Washington, in the full and just sum of Two Hundred and Fifty Dollars, (\$250), to be paid to the said Matt Starwich, Sheriff of King County, Washington, his executors, administrators, or assigns, to which payment, well and truly to be made, we bind ourselves, our heirs, executors, administrators and assigns, jointly and severally, by these presents. Sealed with our seals and dated, this 17 day of March, 1925,

Whereas, on the 25 day of February, 1925, at the District Court of the United States for the Western District of Washington, Northern Division,

in the above-entitled matter, a judgment was rendered against the said T. H. Johnson, dismissing his petition for habeas corpus and remanding him into custody, and for costs, and the said T. H. Johnson having obtained an appeal to the United States Circuit Court of Appeals for the Ninth Circuit, to reverse the decree in the aforesaid suit;

Now, the condition of the above obligation is such that, if the said T. H. Johnson shall prosecute his appeal to effect, and answer all damages and costs, if he fail to make his plea good, then [47] the above obligation to be void; otherwise to remain in full force and virtue.

[Seal]

T. H. JOHNSON, (Seal)
NATIONAL SURETY COMPANY,
By C. B. WHITE,
Attorney-in-fact.

Approved, March 18, 1925.

NETERER,
Judge.

[Endorsed]: Filed in the United States District Court, Western District of Washington, Northern Division. Mar. 18, 1925. Ed, M. Lakin, Clerk. By S. M. H. Cook, Deputy. [48]

In the District Court of the United States for the
Western District of Washington, Northern
Division.

Before the Honorable JEREMIAH NETERER,
District Judge.

No. 9296.

In the Matter of the Application of T. H. JOHN-
SON for a Writ of Habeas Corpus.

ORDER ALLOWING TRANSMISSION OF
ORIGINAL ANSWER.

This matter coming on to be heard upon the stipulation of respective counsel, on file herein, that dispensing with a copy thereof, the clerk of this court may transmit to the United States Circuit Court of Appeals for the Ninth Circuit upon the appeal hereof the original return of the respondent to the order to show cause on file herein, together with all exhibits and documents therein referred to and made a part thereof, it is, therefore,

ORDERED that the Clerk of this court be and he is hereby authorized and directed to transmit to the clerk of the United States Circuit Court of Appeals for the Ninth Circuit, with the record upon the appeal herein, the original return of the respondent to the order to show cause issued herein, together with all exhibits and documents therein referred to and made a part thereof.

Done in open court this 4th day of April, 1925.

JEREMIAH NETERER,
Judge.

O. K.—PATTERSON & ROSS,
Atty. for Respondent. [49]

In the District Court of the United States for the
Western District of Washington, Northern
Division.

Before the Honorable JEREMIAH NETERER,
District Judge.

No. 9296.

In the Matter of the Application of J. H. JOHN-
SON for a Writ of Habeas Corpus.

STIPULATION.

It is hereby stipulated and agreed by and between
respective counsel herein, that, dispensing with a
copy thereof, the Clerk of this court may transmit
to the United States Circuit Court of Appeals for
the Ninth Circuit, upon the appeal hereof, the origi-
nal return of the respondent to the order to show
cause on file herein, together with all exhibits and
documents therein referred to and made a part
thereof.

Dated this 25 day of March, 1925.

JOHN F. DORE,
JOHN J. SULLIVAN,
V. G. FROST.

Attorneys for Petitioner.

T. H. PATTERSON and

BERT C. ROSS,

Attorneys for Respondent.

[Endorsed]: Filed in the United States District Court, Western District of Washington, Northern Division. Apr. 4, 1925. Ed. M. Lakin, Clerk. By S. M. H. Cook, Deputy. [50]

In the United States District Court for the Western District of Washington, Northern Division.

No. 9296.

In the Matter of the Application of T. H. JOHNSON for a Writ of Habeas Corpus.

ORDER EXTENDING TIME TO AND INCLUDING MAY 1, 1925, TO FILE RECORD ON APPEAL.

The Clerk of the above-entitled court having found that thirty days from the filing of the Citation in the above-entitled cause is not sufficient to prepare and transmit the record on appeal to the Circuit Court of Appeals for the Ninth Circuit,—

IT IS HEREBY ORDERED that the time for filing the record on appeal in the United States

Circuit Court of Appeals be, and the same is hereby, extended to and including the 1st day of May, 1925.

Dated this 15th day of April, 1925.

JEREMIAH NETERER,
Judge.

[Endorsed]: Filed in the United States District Court, Western District of Washington, Northern Division. Apr. 15, 1925. Ed M. Lakin, Clerk. By S. M. H. Cook, Deputy. [51]

In the United States District Court for the Western District of Washington, Northern Division.

No. 9296.

In the Matter of the Application of T. H. JOHNSON for a Writ of Habeas Corpus.

SUPPLEMENTAL PRAECIPE FOR TRANSCRIPT OF RECORD.

To the Clerk of the Above-named Court:

You will please prepare typewritten transcript of the minute entry of the Clerk in the above-entitled Court, of oral order made by the Honorable Jeremiah Neterer in the above-entitled cause on the 21 day of February, 1925, allowing amendment of respondent's answer to show cause order. The above to be in addition to the papers requested in the praecipe filed by the petitioner.

PATTERSON & ROSS,
Attorneys for Respondent.

Copy received March 31, 1925.

JOHN F. DORE and
JOHN J. SULLIVAN,
Attorneys for Defendant.

[Endorsed]: Filed in the United States District Court, Western District of Washington, Northern Division. Apr. 1, 1925. Ed M. Lakin, Clerk. By S. M. H. Cook, Deputy. [52]

United States District Court, Western District of
Washington, Northern Division.

No. 9296.

In the Matter of the Application of T. H. JOHNSON for a Writ of Habeas Corpus.

PRAECIPE FOR TRANSCRIPT OF RECORD.

To the Clerk of the Above-entitled Court:

You will please prepare typewritten transcript of record in the above-entitled cause on appeal and file the same in the United States Circuit Court of Appeals for the Ninth Circuit, comprising the following papers:

1. Petition for writ of habeas corpus.
2. Order to show cause thereon.
3. Answer to order to show cause.
4. Order denying writ.
5. Notice of appeal.
6. Petition for order allowing appeal.
7. Assignment of errors.
8. Order allowing appeal.

9. Appeal bond.
10. Citation.

JOHN F. DORE,
JOHN J. SULLIVAN,
V. G. FROST,
Attorneys for Petitioner.

[Endorsed]: Filed in the United States District Court, Western District of Washington, Northern Division. Mar. 13, 1925. Ed. M. Lakin, Clerk. By S. M. H. Cook, Deputy. [53]

In the United States District Court for the Western District of Washington, Northern Division.

No. 9296.

In the Matter of the Application of T. H. JOHNSON for a Writ of Habeas Corpus and for a Writ of Certiorari.

CERTIFICATE OF CLERK U. S. DISTRICT COURT TO TRANSCRIPT OF RECORD.

I, Ed. M. Lakin, Clerk of the United States District Court, for the Western District of Washington, do hereby certify this typewritten transcript of record, consisting of pages numbered from 1 to 53 inclusive, to be a full, true, correct and complete copy of so much of the record, papers and other proceedings in the above and foregoing entitled cause, as is required by praecipe of counsel filed and shown herein, as the same remain of record

and on file in the office of the Clerk of said District Court, and that the same constitute the record on appeal herein, from the judgment of said United States District Court for the Western District of Washington to the United States Circuit Court of Appeals for the Ninth Circuit.

I further certify the following to be a full, true and correct statement of all expenses and costs incurred in my office on behalf of the appellant, for making record, certificate or return to the United States Circuit Court of Appeals for the Ninth Circuit in the above-entitled cause, to wit:

[54]

Clerk's fees (Sec. 828 R. S. U. S.) for making record, certificate or return 118 folios at 15¢	\$17.70
Certificate of Clerk to transcript of record 4 folios at 15¢60
Seal to said certificate20
Certificate of Clerk to original exhibits 2 folios at 15¢30
Seal to said certificate20
	<hr/>
Total	\$19.00
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I hereby certify that the above cost for preparing and certifying record, amounting to \$19.00, has been paid to *my* by attorney for appellant.

I further certify that I herewith transmit and attach the original citation issued in this cause.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said District Court,

at Seattle, in said District, this 27th day of April, 1925.

[Seal] ED. M. LAKIN,
Clerk United States District Court, Western Dis-
trict of Washington.

By S. M. H. Cook,
Deputy. [55]

United States District Court, Western District of
Washington, Northern Division.

No. 9296.

In the Matter of the Application of T. H. JOHN-
SON for a Writ of Habeas Corpus.

CITATION.

To Matt Starwich, Sheriff of King County, Wash-
ington, and to Patterson & Ross, His Attorneys,
GREETING:

You and each of you are hereby cited and ad-
monished to be and appear before the United States
Circuit Court of Appeals for the Ninth Circuit, at
the City of San Francisco, in the State of Califor-
nia, within thirty days from the date of this
citation, pursuant to an appeal filed in the Clerk's
office of the United States District Court for the
Western District of Washington, Northern Division,
in a proceeding therein entitled, "In the Matter of
the Application of T. H. Johnson for a Writ of
Habeas Corpus," numbered 9296, and show cause,
if any there be, why the order and judgment of the

United States District Court for the Western District of Washington, Northern Division, in said appeal mentioned, should not be reversed, set aside and held for naught, and why speedy justice should not be done in that behalf.

WITNESS the Honorable WILLIAM HOWARD TAFT, Chief Justice of the Supreme Court of the United States, this 18 day of March, 1925.

[Seal] JEREMIAH NETERER,
United States District Judge Presiding in said
Western District of Washington, Northern
Division.

Filed in the United States District Court, Western District of Washington, Northern Division, Mar. 18, 1925.

ED. M. LAKIN,

Clerk.

By S. M. H. Cook,

Deputy. [56]

Acceptance of service of within Citation acknowledged this 18 day of March, 1925.

PATTERSON & ROSS,
Attorney for Appellee. [57]

[Endorsed]: No. 4634. United States Circuit Court of Appeals for the Ninth Circuit. T. B. Johnson, Appellant, vs. Matt W. Starwich, as Sheriff of King County, State of Washington, Appellee. Transcript of Record. Upon Appeal from

the United States District Court for the Western
District of Washington, Northern Division.

Filed July 13, 1925.

F. D. MONCKTON,

Clerk of the United States Circuit Court of Ap-
peals for the Ninth Circuit.

By Paul P. O'Brien,
Deputy Clerk.

